

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
EASTERN DIVISION

SHANNON LEE BAXIN,

Petitioner,

v.

No. 1:19-cv-01097-JDB-jay

UNITED STATES OF AMERICA,

Respondent.

ORDER ACKNOWLEDGING VOLUNTARY DISMISSAL
AND
DIRECTING CLERK TO TERMINATE MOTION AND CLOSE CASE

On May 20, 2019, Petitioner, Shannon Lee Baxin, filed a motion to vacate, set aside, or correct her sentence (the “Petition”), pursuant to 28 U.S.C. § 2255. (Docket Entry (“D.E.”) 1.) On May 28, 2019, she filed a motion to “withdraw” the Petition. (D.E. 3 at PageID 23.) The Court construes the document as a notice of voluntary dismissal pursuant to Federal Rule of Civil Procedure 41(a).¹

Under Rule 41(a), if the defendant has not filed an answer or motion for summary judgment in response to the complaint, the plaintiff may dismiss the complaint, without prejudice and without seeking a Court order, by filing a notice of dismissal. Fed. R. Civ. P. 41(a)(1)(A)(i). “[P]roperly filed notices of voluntary dismissal are self-effectuating.” *White v. United States*, No. 2:12-CR-98-JRG-20, 2017 WL 2219018, at *2 (E.D. Tenn. May 17, 2017). In the present case, Respondent, United States of America, has not responded to the Petition. Therefore, as the notice of voluntary dismissal is valid and self-effectuating, the Court finds that the Petition has been

¹ The Clerk is DIRECTED to terminate the motion at D.E. 3.

voluntarily dismissed without prejudice. *See* Fed. R. Civ. P. 41(a)(1)(B) (“Unless the notice . . . states otherwise, the dismissal is without prejudice.”). The Clerk is DIRECTED to close the case.

IT IS SO ORDERED this 3rd day of June, 2019.

s/ J. DANIEL BREEN
UNITED STATES DISTRICT JUDGE